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Jerzy Kalisiak

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BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, IL 60610

EXAMINER

FLETCHER, JERRY-DARYL

ART UNIT

PAPER NUMBER

3715

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/525,265	<b>Applicant(s)</b> KALISIAK, JERZY	
	<b>Examiner</b> JERRY-DARYL FLETCHER	<b>Art Unit</b> 3715	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,8,9,11-19,22-24 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8,9,11-19,22-24 and 32-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/22/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following is a Final Office action in response to communications received on 10/02/2008. Claims 1, 8-9, 11-19, 22-24 and 32-34 have been amended, claims 2-7, 10, 20-21 and 25-31 have been cancelled, and the remaining claims have remained as originally presented. Claims 1, 8-9, 11-19, 22-24 and 32-34 are pending in the application and are addressed below.

#### ***Response to Amendment***

2. The applicant's amendments to the claims are sufficient to overcome the objections and 35 U.S.C. 112 rejections set forth in the previous action.

3.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 8-9, 11, 17-19, 24 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application No: US 2001/0034016 to Ziv-el et al. (Ziv-el) in view of US Patent Application Publication No: US 2002/0187462 to Mariappan (Mariappan) and US Patent No: US 6,091,930 to Mortimer et al. (Mortimer).

In reference to Claims 1, 8-9 & 11

Ziv-el teaches a method of distance learning comprising:

using at least one education center server (Figure 12, elements 345, 348, 352) comprising software for database management, data transfer and communication amongst the education system users; the education center further comprising an educational platform (par. 0010) comprising software for conducting on-line education lessons.

Ziv-el also teaches the establishing at least one interactive on-line session of electronic workshops for each module, the at least one interactive session being established through an educational platform containing a website, and the at least one interactive session including a presentation to the students by the lecturer of the workshop material, submitting to the students questions and exercises to resolve (par. 0010-0011), checking and discussing by the lecturer of the exercises' solutions and a group discussion among students, with use of remote communication means in the form of a discussion group (par. 0065) [claim 11]; and a window that presents an educational material concerning the issues discussed by the lecturer (par. 0054); and

the use of a list button for saving internet addresses (par. 0048) [claim 9].

Ziv-el, however, fails to teach dividing an educational program into several education levels, of which each level includes at least one module, the at least one module corresponding in its contents to a subject of a traditional education;

registering each student within a registration at an education center;

providing a student with at least one electronic data carrier including a workshop material and a multi-media electronic textbook for independent study, and with an access password to the educational platform;

providing each registered student with at least one electronic data carrier in the form of CD or DVD disk for each module wherein the CD or DVD disk contains workshop material, a multimedia textbook for independent study, a starter package including a particular didactic guide and a technical instruction as well as software necessary to open the formats of the files contained in the workshop material and the electronic textbook, and a syllabus;

that the interactive sessions is divided into several independent parts with the same or different durations;

that the students who do not manage to login to the educational platform before the start of the electronic workshops are first directed into a waiting room and then automatically included into the participation in the electronic workshop, the waiting room being created by parallel shifted in time running of several similar electronic workshops;

that the interface displayed during the electronic workshop has three main windows comprising an information window in which all complementary information relating to the material discussed is presented, an action window in which educational material concerning the issues discussed by the lecturer is presented, and a dialogue window in which the syllabus, an index of key notions, definitions and formulas, a calculator, the electronic textbook, as well as the chat and the e-mail are presented and tool bars;

activating electronic consultations between the students and the lecturers,  
following the termination of each interactive session of the electronic workshops, with  
the use of remote communication means;

providing each student following the termination of a predetermined session, with  
a subject of a test work for individual preparation and submission of a test work report to  
educational platform at a predetermined time; or

conducting a final examination for each module.

Mariappan teaches;

dividing an educational program into several education levels (par. 0010, ll. 1-4),  
of which each level includes at least one module (par. 0047), the at least one module  
corresponding in its contents to a subject of a traditional education,

providing a student with at least one electronic data carrier (par. 0025, ll. 1-3)  
including a workshop material (par. 0048, ll. 4-8) and with an access password to the  
educational platform (par. 0028),

allowing a student to perform registration at a server (par. 0027);

activating electronic consultations between the students and the lecturers with  
the use of remote communication means by using chat or email (par. 0039) [claim 11],

providing each student following the termination of a predetermined session, with  
a subject of a test work for individual preparation and submission of a test work report to  
educational platform (par. 0048 & par. 0053); and

conducting a final examination for each module (par. 0053).

It is noted by the examiner that the references do not specifically teach that the workshops are broken into several independent parts but the applicant admits that it is old and well known to break up the delivery of a lesson into different parts, and to assign different times to each part based on the lesson being taught and the audience being lectured.

Neither Ziv-el nor Mariappan specifically teach that the duration of an interactive session of the electronic workshop is between 1 and 5 hours. However, the applicant has not disclosed that the duration of the electronic workshop provides a special advantage or utility to the invention. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have made the duration of the session commensurate with the amount of material to be covered and with the audience of the material. This would have produced the same effect, of providing the student with sufficient time to complete the session as the applicant's claimed invention.

At the time of the invention, it would have been an obvious matter of design choice to one of ordinary skill in the art, to have made the duration of the interactive session between 1 and 5 hours as recited by the applicant since this modification would constitute a design choice which fails to patentably distinguish the claimed invention over the prior art of Ziv-el, Mariappan and Mortimer.

The applicant admits that it is old and well known in the art to use time schedules for class registration and class commencement.

As such, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used a time schedule to establish an interactive on-line session

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in a predetermined time after student registration. This would have provided students with a guideline of when they needed to register for classes and when the classes started.

It is noted by the examiner that Mariappan does not specifically teach that the electronic consultations between the students and the lecturers are subsequent to the termination of each interactive session of the electronic workshops, rather, broadly teaching the use of electronic consultations without specifying when they occur.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have activated the electronic consultations of Mariappan subsequent to the termination of each interactive session of the electronic workshops, as claimed by the applicant, in order to have provided clarification and reinforcement of lecture material to students after they had a chance to complete the workshop and identify the areas in which they needed clarification.

Mortimer teaches the use of a multi-media electronic textbook for independent study (col. 6, ll. 37-42).

The applicant admits that it is old and well known in the field of education to provide a syllabus of study to a student of a particular subject, and also to provide electronic materials to a student on a CD-ROM.

By placing the syllabus, the multi-media electronic textbook and the workshop material on the same CD-ROM or DVD disk, the same result is obtained as if they were placed on separate disks. The computer would be able to download the material from the individual disks onto its memory, and as such the effect of placing them on a single

disk serves mainly to provide the user with a single disk that contained more information, than with multiple disks, that would require more physical space.

At the time of the invention, it would have been an obvious matter of design choice to one of ordinary skill in the art, to have combined the syllabus, multi-media electronic textbook and the workshop material on a single CD-ROM or DVD disk since this is a matter of design choice that does not patentably distinguish the claimed invention from the applied prior art.

The applicant admits that it is old and well known in the art of computer electronics to provide a disk containing a didactic guide, technical instructions and software necessary to open the files contained on the disk.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided a didactic guide, technical instructions and software necessary to open the files contained on the disk with the disk of claim 27 (see rejection of claim 27 above). This would have provided the user with the capability of properly installing and using the software on a computer.

Aggarwal teaches the discussion of the issues by the lecturer (col. 1, ll. 63-67 to col. 2, ll. 1-9) and student discussion (col. 4, ll. 34-39), wherein the means for the discussion is a chat (col. 6, ll. 64-67 to col. 7, ll. 1-11).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have included the teachings of Aggarwal in order to facilitate teacher-student interaction and further to have used the list button of Ziv-el to save the websites

pertaining to the discussion of Aggarwal in order to provide future access to materials related to the issues discussed [claim 9].

Dowling teaches that a virtual waiting area may be used for students (col. 2, ll. 4-7).

Salette teaches that several similar, concurrent workshops could be run (col. 4, ll. 61-65).

The applicant admits that it is old and well known in the art of teaching, to make students that arrive late for a class stand outside the class until there is an opportune moment for the student to enter when he/she will not disturb the lecturer or other students.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used the virtual waiting area of Dowling in order to provide a place for students that arrive late for a class stand outside the class until there is an opportune moment for the student to enter when he/she will not disturb the lecturer or other students in an electronic environment, and to further have implemented the sessions of Sallette with the teachings of to have allowed the workshops of Sallette to be staggered in time so as to have allowed late participants to attend a different or complete version of the lecture as opposed to entering a partially complete session [claim 8].

Rosen teaches the presentation of complementary information relating to the material discussed (col. 10, ll. 9-15) and the presentation of an index of key notions (col. 10, ll. 15-42).

Shende teaches the presentation of formulas (col. 6, ll. 41-44).

Eisendrath teaches the presentation of a syllabus (col. 6, ll. 49-53) and a calculator (col. 10, ll. 12-20).

Frasson teaches the presentation of definitions (par. 0050).

None of the cited references specifically teach the name of the specific window in which the information is presented, however, the name of the window does not affect the presentation of the material in the window. To this end, the recitation of which window the information is displayed in is interpreted as non-functional descriptive material that fails to further patentably limit the claim.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided an interface with the capability of displaying the information of Ziv-El, Rosen, Shende, Eisendrath and Frasson, in order to provide a student user with a visual display of educational tools whilst using the educational system.

It therefore would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of Ziv-el, Mariappan and Mortimer to have provided a student with an electronic learning environment that allowed the student to enjoy a learning experience remotely in a similar manner to traditional in-class learning experience.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the references of Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson in order to provide an educational system to a user. By combining the references, the system provided to the user comprises of an electronic learning environment that allows students and lecturers to

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communicate with each other, and allows for testing and grading of student work.

Though Ziv-el fails to teach all of the claimed limitations, Mariappan includes the teaching of an educational system that allows student registration, the use of an electronic data carrier by the student, student-teacher communication and student testing; Mortimer includes an educational system wherein a multimedia electronic textbook is used; Aggarwal teaches an educational system wherein a teacher discusses issues by using a chat function; Shende teaches an educational system with a display configured to show formulae, Eisendrath teaches an educational system with a display configured to show a syllabus and a calculator, Frasson teaches an education system with a display configured to show definitions, Dowling teaches an electronic environment in which a waiting room for a user is provided and Sallette teaches a learning system in which concurrent workshops can be run. When combined for the purpose of providing an electronic education system to a user, the references teach the applicant's claimed system.

#### In reference to Claims 17-18

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above), and Ziv-el teaches the use of a discussion group (par. 0065).

The applicant admits that it is old and well known in the art of teaching to host a review session prior to a final examination.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used the discussion group of Ziv-el to conducted a review session prior to a final examination in order to provide the students with a recap of the major topics that would be tested prior to them taking the test.

It would further have been obvious to one of ordinary skill in the art, at the time of the invention, to have conducted the review sessions in a manner similar to the electronic workshops in order to maintain consistent lesson delivery, and promote greater understanding by the student [claim 18].

In reference to Claim 19

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above) and Shende teaches that a dynamic examination list is created prior to the commencement of an exam (col. 9, ll. 46-49).

The applicant fails to disclose that blocking out the list at a predetermined time provides a special utility, and the result of registering and verifying students prior to the test is the same as that obtained through the teaching of Shende.

At the time of the invention, it would have been an obvious matter of design choice to one of ordinary skill in the art, to have blocked the dynamic examination list at a predetermined time before the start of the exam in order to provide the system with ample time to verify and register the students so that the exam could proceed on schedule.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of Shende with those of Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Eisendrath and Frasson in order to allow a system to verify students prior to them taking an examination.

In reference to Claim 24

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above) and Sallette further teaches the checking of a user's computer, by the system, for compatibility with the system, and the provision of the required information to meet the compatibility standards (col. 5, ll. 48-64).

By performing the auto-sensing and updating prior to the commencement of an electronic workshop, as claimed by the applicant, the same result of having a compatible user system is obtained as in the auto-sensing and updating of the user computer in Sallette. It would have been desirable to complete these tasks prior to the commencement of the electronic workshop so that the students could have compatible machines and be able to participate in all of the electronic workshops.

At the time of the invention, it would have been an obvious matter of design choice to one of ordinary skill in the art, to have performed the auto-sensing and updating of the user computers prior to the commencement of the electronic workshops since this is considered a matter of design choice that does not patentably distinguish the claimed invention from the prior art of Sallette.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the auto-sensing and updating of Sallette with the system of Ziv-El, Mariappan, Mortimer, Aggarwal, Rosen, Shende, Eisendrath and Frasson in order to ensure that all of the students' computers were capable of allowing the students to participate in the electronic workshops.

In reference to Claim 32

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above), and Mortimer further teaches the presentation of 3-D animations, 2-D illustrations, layouts, diagrams and text (Figure 5 and col. 23, ll. 16-18), and calculations (col. 6, ll. 39-42) and the presentation of video with an individual discussing an issue (col. 7, ll. 22-26).

In reference to Claim 33

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 29 (see rejection of claim 29 above), and Ziv-el further teaches that the tool bars comprise communication buttons and links (par. 0059-0061) and the use of the internet (par. 0054). Mortimer teaches the use of an electronic textbook (col. 6, ll. 37-42) and a glossary (col. 23, ll. 19-23), and Eisendrath teaches the use of a syllabus (col. 6, ll. 49-53) and a calculator (col. 10, ll. 12-20).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used the links and buttons of Ziv-el to have included the functionality

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of Mortimer and Eisendrath in order to provide a system with the capability to interact locally and online, and to provide materials for encouraging student learning.

In reference to Claim 34

Ziv-el, Mariappan, Mortimer and Eisendrath teach the limitations of claim 33 (see rejection of claim 33 above), and Ziv-el further teaches that individual communication and recall buttons are enabled or disabled in various phases of the electronic workshop (par. 0060).

6. Claims 12-14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson as applied to claims 1, 8-9, 11, 17-19, 24 and 32-34 above, and further in view of US Patent Application No: US 2001/0034015 to Raichur et al. (Raichur).

In reference to Claims 12-14

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above) but fail to specifically teach that upon receipt of a question from a student by an operator/consultant within the electronic consultation a check is first made in a knowledge database and if the database contains an answer to the question, this answer is transmitted by the operator/consultant to the student, while in the case of a lack of an answer, the question is forwarded to a lecturer running a given module, who

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then transmits the answer to the operator/consultant, who then transfers the answer to the student.

Raichur teaches that upon receipt of a question from a student by an operator/consultant within the electronic consultation a check is first made in a knowledge database and if the database contains an answer to the question; this answer is transmitted by the operator/consultant to the student (par. 0026-0041), while in the case of a lack of an answer, the question is forwarded to a lecturer running a given module, who then transmits the answer to the operator/consultant, who then transfers the answer to the student (par. 0042-0057), wherein the answer to a question is added to the knowledge database (par. 0056-0058) [claim 13].

Raichur further teaches that the lecturer may be the operator/consultant of the electronic consultations (par. 0025) [claim 14].

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson with those of Raichur in order to provide a student with a system for obtaining expert answers to questions that may arise.

#### In reference to Claim 23

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above), and Mariappan

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teaches that a password and login information is used to provide access to the system (par. 0028).

Raichur teaches a dynamic electronic library is created on the system (par. 0056-0058).

The examiner notes that Raichur fails to specifically teach the contents of the dynamic library that are claimed by the applicant, but the examiner takes **OFFICIAL NOTICE** that it is old and well known to provide reference materials and complementary materials in a library.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have included the contents of the dynamic library as claimed in the dynamic library of Raichur in order to provide the student users with access to helpful reference and study material, and further to have used the password and login information of Mariappan to allow access to the dynamic library of Raichur in order to provide a registered user with access to a database of questions and answers.

7. Claims 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson as applied to claims 1, 8-9, 11, 17-19, 24 and 32-34 above, and further in view of US Patent Application No: US 2003/0180700 to Barry et al. (Barry).

In reference to Claim 15

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above) but fail to

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specifically teach the step of activating archived electronic workshops, the archived workshops being activated after the termination of the electronic workshop, but prior to returning the test work reports.

Barry teaches the step of activating archived electronic workshops (par. 0031).

The choice to activate the archived material as recited in the claim is not patentably different to activating the archived material at an undisclosed time, as in Barry, since there is no specifically stated utility by the applicant that by activating the archived material at the claimed time, there is a special outcome.

At the time of the invention, it would have been an obvious matter of design choice to one of ordinary skill in the art, to have activated the archived material after the workshop was completed so that one would have been able to pay attention to the workshop while it was in progress, and to have then activated the archived material before returning the test work in order to better grasp the material in the time when there was no current workshop, or test work report to review since this is a matter of design choice that does not patentably distinguish the claimed invention over the prior art.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of Barry with those of Ziv-el, Mariappan and Mortimer in order to provide the students with access to archived workshops for review and understanding.

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In reference to Claim 22

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above), and Ziv-el further teaches that the workshops, test works, the examination, the test work subjects and results and the examination grading are included in the web site of the educational platform which is accessible through the use of the access password and student identification (also see rejection of claim 1 above).

Barry teaches that archived electronic workshops are available to the students via an interfaced network (par. 0021).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have included the workshops, test works, examinations, test work subjects and results and the examination grading with the archived electronic workshops of Barry, on the system website to allow the users access to it from remote locations.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson as applied to claims 1, 8-9, 11, 17-19, 24 and 32-34 above, and further in view of US Patent No: US 6,311,041 to Goodyear (Goodyear).

In reference to Claim 16

Ziv-El, Mariappan, Mortimer, Aggarwal, Sallette, Rosen, Shende, Eisendrath and Frasson teach the limitations of claim 1 (see rejection of claim 1 above) and Mariappan further teaches that email is used for correspondence between the student and lecturer

(par. 0039). However, none of them specifically teach that after the return of the test work report, and in a determined time, the lecturer sends the results of the test together with a commentary to the student via email.

The applicant admits that it is old and well known in the art of teaching for a teacher to return the results of a test along with commentary about the results to a student after the student has received the test work report.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, for the teacher to have returned the results of a test along with commentary about the results to a student after the student had received the test work report in order to provide the student with a marked up copy of the test to better facilitate the student's understanding of the tested concepts, especially in the case of a multiple choice test.

The specific time frame in which the teacher takes to return the results and commentary of the test to the student has not been disclosed to add a specific utility by the applicant, and as such provides the same results as returning the test results and commentary at an arbitrary time after the test work report has been returned that is suitable to the teacher and student.

At the time of the invention, it would have been an obvious matter of design choice to one of ordinary skill in the art, to have returned the test scores and commentary at a predetermined time since this is interpreted as a matter of design choice that does not patentably distinguish the claimed invention from the prior art of record.

Goodyear teaches that instructors communicate grades to students by posting student grades to a website (col. 7, ll. 21-24).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have combined the teachings of Ziv-el, Mariappan and Goodyear, in order to allow the communication of grades, as taught by Goodyear, to be via an email, in order to maintain the privacy of each student and their respective score.

### ***Response to Arguments***

9. In the previous Office Action the examiner took **OFFICIAL NOTICE** that:
  - a. that it is old and well known in the art to use time schedules for class registration and class commencement
  - b. that it is old and well known in the field of education to provide a syllabus of study to a student of a particular subject, and also to provide electronic materials to a student on a CD-ROM
  - c. that it is old and well known in the art of computer electronics to provide a disk containing a didactic guide, technical instructions and software necessary to open the files contained on the disk
  - d. that it is old and well known in the art of teaching, to make students that arrive late for a class stand outside the class until there is an opportune moment for the student to enter when he/she will not disturb the lecturer or other students
  - e. that it is old and well known in the art of teaching to host a review session prior to a final examination

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f. that it is old and well known to break up the delivery of a lesson into different parts, and to assign different times to each part based on the lesson being taught and the audience being lectured

g. that it is old and well known in the art of teaching for a teacher to return the results of a test along with commentary about the results to a student after the student has received the test work report.

Applicant failed to properly challenge the statements of **OFFICIAL NOTICE** that were taken, and as such, they have become admitted prior art under MPEP 2144.03 C, which states, "To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 ("[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings" to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or

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declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate."

10. Applicant's arguments filed 10/02/2008 have been fully considered but they are not persuasive. Applicant argues that the combination of references fails to teach the waiting room as claimed. Examiner however maintains that whilst the references by themselves do not individually teach the claimed invention, when combined, as shown above, they show the claimed invention to have been obvious to one of ordinary skill in the art.

The applicant argues that the electronic consultations do not occur after the termination of each interactive session. Examiner disagrees since Mariappan allows the consultation to occur after the session, where students can submit questions to trained personnel. The applicant argues that the trained personnel are not teachers, but the examiner disagrees, since anyone that would be able to help the student with their problem would, in essence be a teacher to the student.

Applicant argues that the cited references fail to teach that the archived workshops are activated after the termination of the electronic workshops but prior to

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returning the test work report. The applicant claims to provide a special utility by reciting that this is for individual preparation and submission of a test work report. The examiner respectfully notes that this recitation is merely an intended use of the claimed invention and does not substantiate a special utility of the claimed invention. Furthermore, the cited reference does not place a limit on when the archived workshops are available and as such it is quite conceivable that it is a design choice to restrict the invention of Barry, in the manner as claimed by the applicant, since by using either configuration, an archived workshop is presented to the student user to assist them with the preparation and submission of a test work report.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JERRY-DARYL FLETCHER whose telephone number is (571)270-5054. The examiner can normally be reached on Monday to Friday 9:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/  
Primary Examiner, Art Unit 3715

/J.D.F./  
Examiner, Art Unit 3715